

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3

4 Jack Miller,  
5 Plaintiff

6 v.

7 Brian Williams, et al.,  
8 Defendants

Case No.: 2:18-cv-00666-JAD-NJK

**Order Dismissing Case**

9 Pro se plaintiff Jack Miller brings this civil-rights case under § 1983 for events that  
10 allegedly occurred during his incarceration at the High Desert State Prison (HDSP). The court  
11 directed Miller to file a fully completed application to proceed *in forma pauperis* or pay the \$400  
12 filing fee<sup>1</sup> and warned him that his case would be dismissed if he failed to do either of those  
13 things. The deadline is two-weeks expired, and Miller has neither paid the fee nor filed a  
14 complete pauper application.

15 District courts have the inherent power to control their dockets and “[i]n the exercise of  
16 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.<sup>2</sup> A  
17 court may dismiss an action with prejudice based on a party’s failure to prosecute an action,  
18 failure to obey a court order, or failure to comply with local rules.<sup>3</sup> In determining whether to  
19 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with  
20 local rules, the court must consider several factors: (1) the public’s interest in expeditious

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22 <sup>1</sup> ECF No. 3.

23 <sup>2</sup> *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

24 <sup>3</sup> See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with  
25 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to  
26 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–  
27 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to  
28 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.  
1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the  
2 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
3 availability of less drastic alternatives.<sup>4</sup>

4 I find that the first two factors—the public's interest in expeditiously resolving the  
5 litigation and the court's interest in managing the docket—weigh in favor of dismissing this case.  
6 The risk-of-prejudice factor also weighs in favor of dismissal because a presumption of injury  
7 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or  
8 prosecuting an action.<sup>5</sup> The fourth factor is greatly outweighed by the factors in favor of  
9 dismissal, and a court's warning to a party that his failure to obey the court's order will result in  
10 dismissal satisfies the consideration-of-alternatives requirement.<sup>6</sup> Miller was warned that his  
11 case would be dismissed if he failed to pay the fee or submit a completed application within 30  
12 days.<sup>7</sup> So, Miller had adequate warning that his failure to pay the fee or submit a completed  
13 application would result in this case's dismissal.

14 Accordingly, IT IS HEREBY ORDERED that **this action is DISMISSED** without  
15 prejudice based on Miller's failure to pay the fee or submit a completed application in  
16 compliance with this Court's April 17, 2018, order; and

17 The **Clerk of Court** is directed to **ENTER JUDGMENT** accordingly and **CLOSE**  
18 **THIS CASE.**

19 Dated: May 31, 2018

20   
21 U.S. District Judge Jennifer A. Dorsey  
22  
23

24 <sup>4</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;  
25 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

26 <sup>5</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

27 <sup>6</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

28 <sup>7</sup> ECF No. 3 (order).